No. 158

LIBRARY
SUPREME COURT, U. S.

Office - Supreme Court, U. S.
FILED
JUL 29 1949
CHARLES ELMORE CROPLEY
CLERK

No. 168

In the Supreme Court of the United States

OCTOBER TERM, 1949

STATE AIRLINES, INC., PETITIONER

v.

CIVIL AERONAUTICS BOARD AND PIEDMONT AVIATION, INC.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE CIVIL AERONAUTICS BOARD

In the Supreme Court of the United States

OCTOBER TERM, 1949

No. 158

STATE AIRLINES, INC., PETITIONER

v.

CIVIL AERONAUTICS BOARD AND PIEDMONT AVIATION, INC.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MEMORANDUM FOR THE CIVIL AERONAUTICS BOARD

The Civil Aeronautics Board entered an order granting a certificate of public convenience and necessity to Piedmont Aviation, Inc., authorizing it to engage in certain transportation by air which the Board had determined to be required by public convenience and necessity. On a petition for review of this order filed with the United States Court of Appeals for the District of Columbia Circuit by the present petitioner, State Airlines, Inc., that court set aside the Board's order and remanded the case to the Board for further proceedings not inconsistent with the court's opinion. Petitions for writ of certiorari to review this

decision have been filed by the Board (No. 157) and by Piedmont (No. 159).

The petition for writ of certiorari filed in the instant case seeks review of the refusal of the court below to compel the Board to issue a certificate of public convenience and necessity to petitioner. The Government believes that the petition does not present any important question of federal law upon which this Court has not yet passed and that the court below correctly held that it was without power to compel the Board to issue a certificate of public convenience and necessity to petitioner. But the Government does not oppose granting the petition if this Court should conclude that, if it grants the petitions filed by the Board and Piedmont, all aspects of the decision to which those petitions relate should be brought before this Court for review.

PHILIP B. PERLMAN,
Solicitor General.

EMORY T. NUNNELEY, JR.
General Counsel, Civil Aeronautics Board.

JULY 1949.